

REMARKS

This is intended as a full and complete response to the Office Action dated September 21, 2005. Claims 1-30 were examined. The Examiner rejected claims 8-13, 15-16, 18, 20-27, and 29-30 under 35 U.S.C. § 102(e) as being anticipated by McDermott, III, et al. (U.S. Patent No. 6,894,970). The Examiner rejected claims 23-27 and 29-30 under 35 U.S.C. § 102(b) as being anticipated by Holender (U.S. Patent No. 5,729,548). The Examiner rejected claim 23 under 35 U.S.C. § 102(b) as being anticipated by Kuo, et al. (U.S. Patent No. 6,493,119). The Examiner rejected claim 23 under 35 U.S.C. § 102(e) as being anticipated by Shew, et al. (U.S. Patent No. 6,530,032). The Examiner rejected claims 8, 23-26, and 29-30 under 35 U.S.C. § 102(e) as being anticipated by Chiu, et al. (U.S. Patent Application Publication No. 2002/0063916 A1). The Examiner rejected claim 14 under 35 U.S.C. § 103(a) as being obvious over Chiu, et al. (U.S. Patent Application Publication No. 2002/0063916 A1). The Examiner objected to claims 17, 19, and 28.

In the Specification

The Examiner indicated that the reference numeral "222" on page 6, line 2, should be changed to "202". In response, Applicant has amended the specification accordingly.

Claim Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 2, 6, 11, 13, 16, and 26-28 under 35 U.S.C. § 112, second paragraph. In response, Applicant has amended claims 2, 6, 11 and claim 13 accordingly. Additionally, Applicant has amended claims 26 and 28 accordingly and then added claims 26 and 28 into new claim 37 as discussed herein. Further, Applicant has cancelled claims 16 and 27. Therefore, Applicant respectfully requests the rejection of the claims be removed.

Claim Rejections Under 35 U.S.C. § 102

The Examiner rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by Shiragaki. In response, Applicant has amended claim 1.

As amended, claim 1 includes the limitation of an optical sampling element configured to sample said signals and produce a sample indicative of said fault signal which is used by said

PATENT

Atty. Dkt. No. AVAN/001004

control mechanism to control said switching. Shiragaki does not disclose sampling a signal to produce a sample indicative of a fault signal which is used by a control mechanism to control the operation of an optical switch. In contrast, Shiragaki discloses a fault detector "65" having a plurality of inputs connected respectively to the outputs of O/E converters "64" to constantly monitor the level of OAM frames supplied to its input terminals. (See Shiragaki, col. 6, lines 11-15) Shiragaki therefore fails to teach or suggest each and every limitation of claim 1. This failure precludes Shiragaki from anticipating claim 1. Applicant therefore respectfully submits that claim 1 is in condition for allowance and requests that the §102(b) rejection be withdrawn. Additionally, claims 2-7 depend from claim 1 and are allowable for at least the same reasons as claim 1.

The Examiner rejected claims 8 under 35 U.S.C. § 102(e) as being anticipated by McDermott, III, et al. or by Chiu, et al. In response, Applicant has amended claim 8.

As amended, claim 8 includes the limitation of sampling a portion of said optical signal to determine an error in said routers. McDermott, III, et al. or Chiu, et al. does not disclose this limitation. In contrast, McDermott, III, et al. merely discloses that control and timing signals are received by an optical switch module through control and timing links for use in determining fault isolation in a switch fabric. (See McDermott, III, et al., col. 11, lines 49-51) Chiu, et al. merely discloses that a router "A" detects a failure in a router "B" and then router "A" requests that a new connection be set up as a backup router. (See Chiu, et al., paragraph [0045]) As the foregoing illustrates, McDermott, III, et al. or Chiu, et al. therefore fails to teach or suggest each and every limitation of claim 8. This failure precludes McDermott, III, et al. or Chiu, et al. from anticipating claim 8. Applicant therefore respectfully submits that claim 8 is in condition for allowance and requests that the §102(e) rejection be withdrawn. Additionally, claims 9-13 depend from claim 8 and are allowable for at least the same reasons as claim 8.

The Examiner rejected claims 23-27 and 29-30 under 35 U.S.C. § 102(b) as being anticipated by Holender. Further, the Examiner rejected claim 23 under 35 U.S.C. § 102(b) as being anticipated by Kuo, et al. Additionally, the Examiner rejected claim 23 under 35 U.S.C. § 102(e) as being anticipated by Shew, et al. Also, the Examiner rejected claims 15-16, 18, 20-27, and 29-30 under 35 U.S.C. § 102(e) as being anticipated by McDermott, III, et al. Furthermore, the Examiner rejected claims 23-26 and 29-30 under 35 U.S.C. § 102(e) as being anticipated by

Page 7

416615_1

PATENT

Atty. Dkt. No. AVAN001004

Chiu, et al. Applicant has cancelled claims 15-16, 18, 20-27, and 29-30, thereby obviating the rejection.

Claim Rejections Under 35 U.S.C. § 103

The Examiner rejected claim 14 under 35 U.S.C. § 103(a) as being obvious over Chiu, et al. Applicant has cancelled claim 14, thereby obviating the rejection.

Allowable Subject Matter

The Examiner objected to claims 17, 19, and 28 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicant has rewritten claims 17, 19, and 28 as new claims 32, 33, and 37 respectively. Applicant has amended the limitations of the any intervening claims to overcome the rejection under 35 U.S.C. § 112. Therefore, Applicant believes that new claims 32, 33, and 37 are in condition for allowance and respectfully requests the same. Additionally, new claims 34-36 depend from new claim 33 and are allowable for at the same reasons as new claim 33.

Conclusion

Having addressed all issues set out in the office action, Applicant respectfully submits that the claims are in condition for allowance and respectfully requests that the claims be allowed. If the Examiner has any questions, please contact the Applicant's undersigned representative at the number provided below.

Respectfully submitted,



Walter C. Grollitsch
Registration No. 48,678
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant